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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,873	07/19/2005	Gabriele Cruciani	P-2564	2043
2120	7590	02/24/2010		
PAUL A. FATTIBENE FATTIBENE & FATTIBENE 2480 POST ROAD SOUTHPORT, CT 06890			EXAMINER	
			LEIVA, FRANK M	
ART UNIT		PAPER NUMBER		
3714				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,873	<b>Applicant(s)</b> CRUCIANI, GABRIELE
	<b>Examiner</b> FRANK M. LEIVA	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 January 2010.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 23-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 January 2010 has been entered.

### ***Acknowledgements***

2. The examiner acknowledges newly canceled claims 15-22 and new claims 23-27 in applicant's submission filed 26 January 2010.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 23-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 23-27** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Both independent **claims 23 and 27** include

the limitations a bladder placed within said external spherical covering and conforming substantially to the internal spherical surface", and "a sensor support extending along a diameter of the internal spherical surface and fixed at each end to said bladder". Having found no support to the limitations other than what is seen on figure 6 of the drawings, the examiner deems that broad language has been used to describe the figure and more than what is apparent is described. Conforming substantially is not observed on figure 6, only conforming to one half of the spherical surface, and no "support" device is added by figure 6, although the two bladders when inflated will support the sensor, a separate support device is not drawn.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over King Jr. (US 2002/0054905 A1) in view of Spector (RE. 30,103) Reissue of US Patent no. 4,015,111.**

9. Regarding the analogous art combination; King Jr. discloses a method of tracking a ball on a court to asses the passing of the ball through the goal line, including imbedding sensor/transmitters inside the ball; Spector discloses a method of imbedding an electronic device inside a ball by pressing it between two bladders inside the ball and holding the device in a central position inside the ball or globe. Both references teach of imbedding a device inside a ball.

10. **Regarding claim 23; King Jr. discloses** an electronically detectable ball usable for a ball game, (¶ [0037]), comprising an external covering having an internal surface (figs. 8-10);

a device (passive detectable electronic location sensor), (figs. 8-10, ¶ [0040]), whereby said passive detectable electronic location sensor is adapted to be detected and the occurrence of a goal is capable of being confirmed, (¶ [0008]).

King Jr. is silent about a first or second bladder, whereas Spector discloses: a first bladder portion placed within said external covering and conforming substantially to the internal surface of said external covering, (fig. 2);

a second bladder portion placed within said external covering and extending along a chord between said first bladder portion, (fig. 2); and

a device (passive detectable electronic location sensor) fitted in said second bladder portion, (fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention after reading Spector's disclosure, to enhance the ball transmitter device of King Jr. located in the outer skin of the ball with one located in the center of the ball. Using the known technique of holding a device in the center of a ball as in Spector, would allow for the invention to be used in professional sports where a exterior sensor would interfere with the playing and stability of the game ball. It would have been an obvious predictable result to one of ordinary skill, to implement any and all methods

of inserting a sensor/transmitter including the use of a well known passive sensor, yielding a predictable result.

**11. Regarding claim 24;** Spector further discloses said passive detectable electronic location sensor is located midway along the chord (straps), (col. 4:1-2).

**12. Regarding claim 25;** Spector further discloses the chord comprises a diameter, (col. 3:54-63).

**13. Regarding claim 26;** Spector further discloses said device (passive detectable electronic location sensor), is located midway along the diameter and at the center of the electronically detectable ball, (col. 3:54-63).

**14. Regarding claim 27;** King Jr. discloses an electronically detectable ball usable for a ball game, (¶ [0037], fig. 8), comprising a passive detectable electronic location sensor (device); whereby said passive detectable electronic location sensor (device), is adapted to be detected and the occurrence of a goal is capable of being confirmed, (figs. 8-10, ¶ [0008] and [0040]);

King Jr. is silent about a first or second bladder, whereas Spector discloses: an external spherical covering having an internal spherical surface, (fig. 2); a bladder placed within said external spherical, covering and conforming substantially to the internal spherical surface of said external spherical covering, (fig. 2); a device (sensor) support extending along a diameter of the internal spherical surface and fixed at each end to said bladder, (fig. 2); and

a device (passive detectable electronic location sensor) formed inside said device (sensor) support substantially midway along the diameter, (fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention after reading Spector's disclosure, to enhance the ball transmitter device of King Jr. located in the outer skin of the ball with one located in the center of the ball. Using the known technique of holding a device in the center of a ball as in

Spector, would allow for the invention to be used in professional sports where a exterior sensor would interfere with the playing and stability of the game ball. It would have been an obvious predictable result to one of ordinary skill, to implement any and all methods of inserting a sensor/transmitter including the use of a well known passive sensor, yielding a predictable result.

***Examiner's Note***

15. The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed .... "In re Fulton, 391 F.3d 1195, 1201,73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter D. Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML  
02/22/2010  
/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714